

PUBLIC HEARING

DECEMBER 2, 2015

A public hearing of the Council of the County of Kaua'i was called to order by Mel Rapozo, Chair, Committee of the Whole, on Wednesday, December 2, 2015, at 2:03 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali'i
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

The Clerk read the notice of the public hearing on the following:

"Bill No. 2604 – A BILL FOR AN ORDINANCE TO ESTABLISH A NEW ARTICLE IN THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO BARKING DOG NUISANCE,"

which was passed on first reading and ordered to print by the Council of the County of Kaua'i on November 4, 2015, and published in The Garden Island newspaper on November 10, 2015.

The following communications were received for the record:

1. Ryan, Mike, December 1, 2015
2. Zwiebel, John, December 1, 2015

The hearing proceeded as follows:

SCOTT K. SATO, Deputy County Clerk: We received two (2) written comments and we have nine (9) registered speakers. The first speaker is Alice Parker, followed by Lynn Aylward-Bingman.

Council Chair Rapozo: Ms. Parker.

ALICE PARKER: Alice Parker for the record. I think the current version of the Bill that you have in front of you is very good, but I have a little blip. I have a neighbor who has a Chihuahua Terrier mix who is fine, except I have another neighbor who acts in a dummkopf manner and she trains the dog to bark for treats. I have asked her not to, but she likes to do it. Now, the owner of the dog does not have the backbone to speak to her. I think she should be cited, but would the owner be cited because he is sitting there watching her make the dog bark? It is really annoying. It goes on for half an hour. Thank you.

Council Chair Rapozo: Thank you very much. Next speaker, please.

Mr. Sato:
followed by Adolf Befurt.

The next speaker is Lynn Aylward-Bingman,

LYNN AYLWARD-BINGMAN: Good afternoon. I would like to thank the Council. This is certainly an improvement of the last Bill. I still have some issues with it and some clarification points. In my opinion, this all should be part of a noise abatement rule. It should not be separated out. But given that this is what is before us, I think it is important to go over a couple of things. First of all unfortunately there are people who are in neighbor disputes and who will lie even under penalty of perjury to get their own way. I am out a substantial amount of money even though the court dismissed my case. There is no way for me to get that money back because the Prosecuting Attorney was free and because it had a criminal element to it, which is still in this law, and I think that should be removed. I also do not think the Prosecuting Attorney's Office should be handling this in any way, shape, or form because it is a waste of resources. They need to be addressing other things. They do not have enough staff to be addressing these things. So, that is one of the problems I do have with it. It is a cost inefficient way to handle it. I think it should be handled through some sort of a civil or administrative matter whether it be mediation, arbitration, or something like that. That way, both parties are going to be looking at incurring costs.

Secondly, if a false complaint is filed and loses, such as in my case, the case was dismissed for lack of evidence. Then, the party making the false complaints should be penalized to include all of the monetary damages expended by the party they complained against. There should be some sort of recourse and there is not, even in this law.

The other thing is you have again designated the Kaua'i Humane Society, which I still feel has some problems. In order to be an Animal Control Officer, they need to be trained. They need to have written guidelines, those things were promised in the original hearings on the old law, and it never happened at all. They need to be trained. You probably need two (2) to three (3) full-time Animal Control Officers for the number of complaints on this island. You cannot hand over the criminal authority to prosecute someone to civilians who are not trained and who have no guidelines. That is frankly unconstitutional.

I do not think we should give the complainers the right to keep logs because again, they will falsify those logs. If they are going to lie under penalty of perjury, they do not care. Let us see. I have thirty (30) seconds. Again, administrative claims and there should be one thing in the two (2) complaints. It should be by two (2) unrelated neighbors. I do not think the word "unrelated" was in there. There should be two (2) unrelated neighbors in that neighborhood, and it did encompass the neighborhood area. Thank you.

Mr. Sato:
Peterson.

Next speaker is Adolf Befurt, followed by Bill

Council Chair Rapozo:

Adolf.

ADOLF BEFURT: My name is Adolf Befurt. I am a resident of Kaua'i for about forty (40) years. I had my own business for twenty-five (25) years. I am just astonished about our County government. It takes so long to solve something really simple like the barking dog. It has been going on for years, for

months now, and wasting a lot of time. I am from Germany originally and when I left there in 1956, the problem was really easy. They used muzzles or a harness on the dogs. They were adjustable with soft materials so it would not hurt the animal. They could drink. They could eat. It is two-fold. They are quiet, they cannot bark, and they cannot bite somebody. More people die of dog bites in this Country than shark attacks. Now, the price for a harness like this should not be more than fifty dollars (\$50) or seventy dollars (\$70). When you have dogs, you have responsibilities. The same thing when you are parent. If you have children, you have a responsibility that the kids behave and not be a nuisance to the neighbors. Do we not have any common sense anymore? Why does it take so long to solve something that simple? I ask any of you, do you have an answer for me? You can use that suggestion. That has been used for years and years and years, and things work. The dogs do not get hurt, the neighbors do not get disturbed, and kids are safe from dog bites. Thank you.

Mr. Sato:
Kathi Lee.

Next speaker is Bill Peterson, followed by

BILL PETERSON:

Good afternoon.

Councilmember Hooser:

Good afternoon.

Mr. Peterson: Thank you for giving me the opportunity to give testimony on this issue. It is very important, at least to me. It is an important issue because it is well documented that noise pollution and barking dogs in particular not only disturb our peace and well-being, but can present serious health consequences as well. They can also cause disputes between neighbors, as we have seen, and can escalate to expensive civil lawsuits and even violence. An effective barking dog ordinance is essential. Previous experience shows us that owners of barking dogs generally fall under one (1) of three (3) categories; those who do not know that their dogs are barking during the day while they are at work or whatever. Those people, if you inform them, are happy to take care of the problem. They will either muzzle their dog or they will get the dog trained. They will try and correct the problem and be a friendly neighbor. Those are good neighbors.

The second group tends to fall under those who either know their dogs are barking or do not care, but are willing to correct the problem if they are forced to by the law. That is where this law comes into play. It needs to speak to these people.

The third group are the ones that know their dogs are barking, do not care, and get aggressive if you ask them about it. Those, we cannot handle. That has to be done by law enforcement because danger lies in that direction. They can be very aggressive and there are numerous cases throughout the Country where that has resulted in shootings or some other form of violence.

But what we are talking about today is Bill No. 2604, which is based substantially on the original ordinance which was passed a year ago and then recently repealed. Among the differences is Section 22 part 3, which requires that the complaints must be from at least two (2) people from two (2) different households in the same real property area in order to issue a citation. Research shows that in the past such multiple household laws have rarely been effective in controlling barking dogs because it is hard enough these days for one (1) person, one (1) household to come forward and complain about a neighbor's barking dog, let

alone two (2). It also brings up several questions. If a burglar robs my house, do I have to wait until he robs my neighbors as well before placing a complaint? We live on a corner. We are frequently disturbed by barking dogs from several directions in which our neighbors may not hear. Does that leave us with no recourse under this new law? Hypothetically, is there anything in the law that would prevent someone from buying property adjacent to yours, Councilmembers, installing a dog kennel that is sound proofed on three (3) sides on your common property line, and housing dogs that bark twenty-four (24) hours a day audible and disturbing to you?

Council Chair Rapozo: Thank you, sir. I have to stop you there. That is your first three (3) minutes. After everyone has testified for the first time, you can come back and wrap it up.

Mr. Peterson: Thank you.

Council Chair Rapozo: Thank you.

Mr. Sato: Next speaker is Kathi Lee, followed by Pam Welch.

KATHI LEE: Hello. I am here to speak to the right to have a quiet night's sleep. Sleep deprivation is a serious issue.

Councilmember Yukimura: Can you state your name again?

Ms. Lee: Kathi Lee. A sleepless night really messes up a person's ability to put in a good days work. It is stressful and it can make you feel sick. This is not a minor annoyance that we are talking about there today. I have heard it said that a person should check out the neighborhood before they move there if they do not like barking dogs. We did. It was a quiet neighborhood for the first several years. It is a farm community with lots of dogs, but everyone was a responsible dog owner and kept their dogs in at night. The new arrival to the neighborhood has brought the barking dogs. I have heard it said that pig hunting dogs are part of the culture. In our particular neighborhood, it is a new comer to the island from the mainland with his pair of pit bulls, not hunting dogs. Some say it is important to have dogs running loose at night to keep away intruders. We have never had intruders, but it was sounding like there were intruders all night long with the barking that went on and on. How would you know if there was an intruder when the barking is continuous? Our case has been resolved, but only after a neighborhood cat was killed by these two (2) dogs at 2:00 a.m. under our house. Since the recent cat killing, the dogs have been kept inside at night and the barking has stopped, at least for now. Having just experienced several weeks of lost nights sleep, I have sympathy for those who have this as an ongoing problem. The ability to have a good night sleep definitely has an impact on a person's quality of life. If one cannot get peace at night in one's own house in their own bed, something is really wrong. Thank you.

Council Chair Rapozo: Thank you.

Mr. Sato:
Kerman.

Next speaker is Pam Welch, followed by Lisa

PAM WELCH: *Aloha.* My name is Pam Welch. I have mixed feelings regarding the passage of proposed Bill No. 2604. During the public hearing to repeal the previous baring dog law, many people including myself believed that having a law on the books served as a deterrence to nuisance barking. So, if passing an ordinance full of double speak loop holes and Catch-22s will accomplish that, then pass away. That is my emotional feelings. I do have a huge problem with Section 22-4. I am going to read it out loud so everyone can hear, to use Councilmember Hooser's words, "silly" it sounds, if I can get it on my computer. "Sec. 22-____.4 Affirmative Defense. A dog shall not be deemed a barking dog for purposes of this section if, at the time the dog is barking or making any other noise, a person is trespassing upon or traveling past private property in or upon which the dog is situated or for any other reasonable or apparent cause for the dog's barking." Since dogs always have a reason for barking whether it be something they see, hear, or feel under Section 22-4 as it is currently written, there is no circumstance under which a dog would ever be deemed a nuisance barker. Working with that truth, all of the other Sections of the document become meaningless because they would never come into play. So, it does not matter who is going to enforce it or how many people it takes. It does not matter because there will never be any barking dogs. My logical side says, please stop wasting everyone's time and energy on useless legislation. Thank you for the opportunity to speak.

Council Chair Rapozo:

Thank you, ma'am.

Mr. Sato:
Robert Cremer, Jr.

Next speaker is Lisa Kerman, followed by

LISA KERMAN: Hello Councilmembers. I am back again and I do have good news. The barking dogs that have been a nuisance for over a year have at least temporarily stopped because I put out a threat that I was going to call the County because these people are living illegally on the land. They bring more people and they bring more dogs all the time. I do believe it is temporary and I do believe that the only recourse that we can actually have that will speak to these people is a sound ordinance. I do believe it should be part of a total sound ordinance. One of the problems I do have with Bill No. 2604 is that I foresee some problems with finding two (2) people in the neighborhood to testify about barking dogs. I made some calls when I was having all of these problems and a lot of the neighbors do not want to make waves. One of the suggestions I have that I believe has been made in the past is that we have two (2) people not necessarily from the neighborhood that live in the neighborhood, but two (2) people maybe myself who lives in the neighborhood and someone comes over as another person that can testify because they are not worried about any recourse being taken against them. I am not worried about that, but a lot of people are. If they live in the same *hui*, they are very nervous about it. They do not want a neighbor upset with them because they made a complaint about their barking dogs. So, one of my thoughts is that if we need two (2) people to complain, what about having one (1) person from outside of the neighborhood? Would that be an option possibly?

Anyway, right now my particular situation is a little quite, but I do believe it is temporary because as soon as these people get lazy, the dogs will start barking again. I actually was going to buy three (3) barking collars for their three (3) dogs,

but more dogs keep showing up and it is not my responsibility to pay for barking dog collars. I do think we need a bill. It is just a matter of what that bill is going to say and who is going to enforce it. I do see problems with the law enforcing it. I think it would be great, but everybody is related here. So, what would stop somebody from calling and say, "Hey we are going to come by and give you a ticket, put your dog in the house and get it quite right away." I do not know. I do not know what the answer is. Obviously it has not worked the way it has been. But I do like the woman's idea about having a full-time person with the Kaua'i Humane Society. I do not know if that would work or not, but I do think we need somebody set aside specifically for this job. Thank you very much.

Council Chair Rapozo:

Thank you.

Mr. Sato:
by Faith Harding.

Next speaker is Robert Cremer, Jr., followed

ROBERT CREMER, JR.: For the record, my name is Robert Cremer, Jr. Again, I am going to go back to say why we are always rush in making laws and trying to put things into place without even doing investigations and knowing the ins and outs of everything that we are going to do that is going to affect people in the community. You folks are bound to make laws that are not going to affect people in the wrong way. This law is so absurd and crazy. We come back with a law that we repealed that is coming back that is almost identical. There is not too much difference to this law. First of all, I am going to talk about agriculture. A lot of these people come from away and move in an agricultural subdivision and do not want dogs to bark, chickens to crow, or cows to moo. Come on. That is the reason why people buy agricultural properties, to raise animals and to provide substance to feed their families. Again, the burden of proof is on the person that owns the dog again. The expense is going to be on him with this law. We talked about this the last time we testified. That is why we repealed it. Again, the burden of proof is on the owner of the dog. He is going to have to spend the cost. I thought that was one of the main reasons why we repealed this thing. The Kaua'i Humane Society should have never been involved in enforcing this law, never, without training or having any kind of law enforcement training. How can it be a noise violation when the Kaua'i Humane Society is going to take of it? Humane. What does humane mean? Care. Go look it up. What does humane mean? Taking care of. Well-being. It is not noise. Noise is a noise ordinance issue. It is not anything to do with the Kaua'i Humane Society. If there was a problem with a humane problem like the dog is barking because there is no water, then it comes under their jurisdiction. It is not about dogs barking in a noise ordinance. So if a person is screaming down the road, are we going to call the doctor to come check on him? He is making noise or playing his music too loud. It is not the doctor's problem. It is the police.

The biggest problem, I think, is you folks should make an ordinance about a disclosure policy for the realtors because ninety-nine percent (99%) of all the cases is from people move from away coming into a neighborhood that is al hunky-dory with the realtor. I know of many times the realtor pays the person two hundred dollars (\$200) to move the chicken across the street or to somebody's house until he is *pau* sell the property and the property is sold and closed. Straight up. There should be a disclosure bill that you folks should be working on. I do not know what pushed you to do this, KipuKai, but this is crazy. Straight up. This is crazy. I am

not trying to get personal or anything. This is crazy. I think the testimony of the last lady...

Council Chair Rapozo: Robert.

Mr. Cremer: Oh, I am sorry.

Council Chair Rapozo: No. It is just that your time is up.

Mr. Cremer: Okay.

Council Chair Rapozo: You can come back. Next speaker.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: The next speaker is Faith Harding.

FAITH HARDING: Good afternoon Councilmembers. Imagine if you will, a neighborhood, one that is more suburban than rural. Houses for some reason are built rather close, nearly on top of one another. It is almost like whoever created these plots of land to build on had a cruel joke in mind. Let us put human beings in living quarters as close as we can with no insulation and no air condition (AC) so they have to live with their windows open. Then you have people bring all of their things when they move to these homes. Sometimes they bring lots of pets. Two (2) or more is lots to me. My home is nestled literally between four (4) homes on a cul-de-sac in the Kapa'a/Kapahi neighborhood. Now I am all for working it out and being a respectful neighbor. I work from home. So therefore, I am home during the day. The house to the left of me in the front has two (2) dogs. The house behind to the left of me has two (2) dogs. The house in back of me has had animals come and go, and then the house to the right of me has two (2) dogs. Now as a cat owner, I am responsible for the well-being of my cat as I take the responsibility when I become that cat's caregiver. Cats are different than dogs. Dogs need much attention. Dogs bark. It is what they do. They mostly bark when the owner is not home. They bark because something is wrong or they have some issue that needs attending to. When the owner is not home, they do not know because they are not home. Again, I work from home. It is deafening when the barking is incessant. I have politely confronted my neighbors on more than one (1) occasion when the ordinance was in effect. I actually printed out the ordinance and went and gave it to them. I now have their phone numbers so I text when the dogs barking is relentless. For the most part, the neighbors have been rather accommodating. I guess the question should be, the dog ordinance does not repealing or retooling despite the fact that I am here to day testifying on that very subject. The question should be, the Council should be dealing with more pressing matters like infrastructure, overdevelopment, homelessness, joblessness, a living minimum wage, and perhaps some term limits. *Mahalo*.

Council Chair Rapozo: Next speaker. That is it. Anyone else wishing to speak for the first time?

BRUCE HART: For the record, my name is Bruce Hart. There has been some really interesting testimony up until this point. I hope mine helps as much as the rest of the testifiers. I am going to read something I put together. It is suggestions for the Bill in order to address the problems of the original. County Council, Barking Dog Ordinance (BDO) public hearings,

December 2, 2015. There are two (2) changes and one (1) addition to be made to the original BDO. First change is to add one (1) more witness, total of two (2), to the log entries. The second change is the provision of need of proof of provoking provocation. Third, is the suggestion of a clause statement located in the log at the end just above the signature lines by both witnesses, a clause which reads in the standard legal language for fraud. Further, all completed and returned logs to the enforcement agency are to be filed for their use if the case goes to court. The educational package is to include instruction to the complainant and their witness that there may arise a challenge to the log and both may be required to testify under oath in court. If the logs are not completed and signed by both witnesses, the case is not admissible. The second witness can be any credible witness. Credibility is, as in all legal actions, if in fact the credibility is challenged up to the opposing attorneys, the Judge, and/or the jury to determine. Still to be decided is the number of times log entries must be made. The rest of this is some of my opinion as to all of this. There was a need to add an additional witness so the case did not hinge upon one (1) witness against another. This will help assure no fraud and the case will prevail in court. If as was the stated case it was not good law for there to be only one (1) complainant witness to prove an infraction, incessant barking, then it is also true and fair that there need be proof of provoking on the part of the dog owner, not just the statement of one (1) witness. This will then eliminate the second bad law issue of the original possible cause of the law not prevailing in court due to an inability on the part of the Judge to be able to determine if there was indeed provoking based upon testimony of only one (1) witness. The provision that the original also being too broad, the change in the new one should be narrowed. Thank you.

Council Chair Rapozo: Thank you very much.

Mr. Hart: Any questions?

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I would like you to repeat or rephrase your statement about the need for provocation.

Mr. Hart: Okay. Well, I have more than one (1), Councilmember Yukimura. Claim of provocation provoking without proof is not conclusive. Then, if as was the stated case it was not good law for there to be only one (1) complainant witness to prove an infraction, incessant barking, then it is also true and fair that there need be proof of provoking on the part of the dog owner, not just the statement of one (1) witness, that being the dog owner.

Councilmember Yukimura: In court, there always has to be proof.

Council Chair Rapozo: Thank you.

Mr. Hart: Okay.

Council Chair Rapozo: Anyone else wishing to speak for the first time? First time. Second time?

Ms. Parker: Alice Parker. I mentioned my neighbor who was provoking the dog to bark. I went up to her and stood about a foot away and

barked loudly in her ear, and she backed up. She is still getting the dog to bark. The other thing is there was a dog owner, kennel owner, who was good about keeping his dogs quiet and the Kōloa area. He had a water system. Until he got into a fight with his neighbors, he would not repair the water system. But when that was on, it worked. As I have testified before when my dog, who is a good watch dog, but if she gets carried away I have a bottle. I guess it is for ketchup and I put water in it. I just squirt it at her and she backs up and shuts up. So, water is a good solution and humane. Thank you.

Council Chair Rapozo:

Sir.

Mr. Peterson: Back again. Just to introduce myself since I did not the first time, my name is Bill Peterson. I am a resident of Kapa'a. I found some very interesting speakers today. I can agree with a lot of what they said. I think one of the biggest problems with the law that is currently proposed aside from the multiple complaints required, which is difficult to come up with, is the affirmative defense is way too broad. The "traveling by" is a reasonable cause for the dog to bark. Well, that is difficult to define, document, or prove and it brings the viability of the entire law into question. I think the gentleman that just spoke had a very good point that if it takes two (2) people to require the law to prosecute an event, then it takes two (2) people to prove this affirmative defense as well. That brings me to Section 22 part 8, the Severability. That has been crossed out of this ordinance, which means if any part of the ordinance is found to be unenforceable, the entire ordinance is gone. That brings, to me, the question of is this really a proposal or is this basically just a made to fail ordinance, a straw dog made to make the Councilmembers looks like they are doing something useful without actually passing an enforceable ordinance. I am not saying that is the case. I am just saying the severability issue brings it into question. It is interesting to me that Hawai'i, O'ahu, and Maui Counties have had existing barking dog ordinances on the books for years as part of their larger noise abatement programs. Their barking dog fines start at one hundred dollars (\$100). Do we know if their laws are working? I mean, the laws have been on the books for quite some time. I have the brochures. I am happy to share them with the Councilmembers if they are interested. It seems impossible that we could have missed that much.

Anyway, I know it is a difficult procedure and it is a difficult issue to solve, but I am sure there is enough brain power on the Council to come up with a solution that works for everyone; dog owners and the poor people who have to suffer through it. We live in a neighborhood that is basically urban rather than rural. We are surrounded by houses. My family bought that house close to forty (40) years ago. It is not like we just moved in here from the mainland and we are saying, "Hey, suddenly there are dogs barking around us. There were not any dogs around us in the 1980s." Now there are. Now there are dogs across the canyon, dogs up the hill, and dogs behind us. At 6:00 p.m. every night somebody is feeding their dogs and they are barking like crazy. We need to fix it.

Council Chair Rapozo:

I have to stop you there.

Mr. Peterson:

Thank you.

Council Chair Rapozo:

Thank you. Anyone else for the second time?

Ms. Aylward-Bingman: First of all, I will note that that I am the only one who has suggested a penalty for a false complaint. I think as the Councilmembers may recall, I mentioned that before I ever had dogs it came from the mainland, these people came over and said they did not believe dogs should bark and my dogs had better not bark. That was their welcome to me. They did not know how many, they did not know what breed, and they did not know how old. They knew nothing about them except that I had dogs. This is someone, and there are people out here like that, that simply want to achieve some purpose and are using the dogs as a problem. As far as provoking, twice that I was home, she has sprayed Roundup into my dog pen. She did not know I was home either of those times and the last time was after the case was dismissed. I heard the dogs barking because I am retired. I do volunteer work with the Veterans on almost a full-time basis. I heard the dogs barking. It was a Sunday morning. I went down and I figured well, it is almost 10:00 a.m. and I would let them out of their dog pen, which is huge. I let them out and as I step into the dog pen, I smell the Roundup and simultaneously my dogs start barking down near the fence. I look down there and there she is spraying her Roundup on my property as well as her own. She kills my plants too. She then tells her husband to call the police and tell them that I have sent the dogs out to attack her. Now the dogs never got near her. They were up at the edge of the hillside. So they were a good thirty (30) feet or forty (40) feet away from her. They were barking. They bark at these people all the time whenever they are out because they have been hit by electronic signals, they have been hit by sounds of different types, and they have been hit by Roundup probably more than the two (2) times. One of my dogs died of a tumor and now I am wondering if that was not the reason. I have a situation. How am I supposed to prove provoking? It would boil down to credibility, and I will put my credibility against theirs any day of the week. Something has to be done in terms of penalizing people like this for making these false complaints and using it as a weapon. Again, this is not something that should be in a criminal system. It is the wrong use of our Prosecuting Attorney whether or not you think it should be part of noise abatement or disagree with me on that. I can even understand some rules for this. But my dogs – I am a widow. I live alone. My dogs bark when there is a reason, and I am not talking about a frivolous reason. They bark if somebody is harassing them, they bark if there is danger on the property, or if there is a stranger. My pool person comes, they will bark about two (3) or three (3) times, and then they stop because they know it is Danny. Thank you.

Council Chair Rapozo:

Thank you very much.

Ms. Aylward-Bingman:

I appreciate it.

Mr. Cremer: Again, I am going to say this is an absurd draft of a bill. It goes right back to the same place we were three (3) or four (4) months ago when we tried to repeal it and we got it repealed. Two (2) people can always conspire and say the dogs are barking. Again, the burden of proof falls right back on the owner. The expense falls right back on the owner. When you folks can stop cats, chickens, and other types of feral animals from being loose to stop dogs from barking, then I see you folks being able to enforce this law the fullest as a noise ordinance. But until then, there is no way you folks are going to be able to prove that my dogs are not barking at a chicken, a cat, a rat, a toad, or any type of other animal. Straight up. How are you folks or anybody going to prove that?

Again, it is going to fall back on I have to prove that my dog was barking at that. I am going to have to hire the lawyer. When the two (2) people is making the complainant that could be conspiring against me because they do not want me to have any dogs in the neighborhood because they have a Bed & Breakfast or they have their little hideaway that they just want to have peace and quiet and have no one around them, they want to live in an agricultural subdivision and just have their swimming pool and swim around and have their glory time, and have their little wine parties. Sorry. I am going to be straight up. It should not be a type of law right now as far as our community is or how it goes on this island of Kaua'i. You folks have to figure out a way to make an ordinance that is realistic. This is so unrealistic. It is a shame. It is like I am going to the toilet again, sitting down, taking a crap, and there is no toilet paper in the holder. Straight up. I hate to sound like that and say this, but it is the truth. It is a shame that we can even bring this to the table without conspiring or even coming forward and asking the hunting community, the dog community, and the people who have a problem with dogs. I am not saying there is no barking dog problems. There is definitely, but we have to be realistic and put all of our heads together and figure out a realistic law and bill that will work. This is crazy honestly. Think about it. I think a fifteen (15) year old kid can see that this is crazy. Thank you.

Council Chair Rapozo:
for the second time?

Thank you. Anyone else wishing to testify

Mr. Hart: Again for the record, Bruce Hart. I would like to commend all of you. This has been going on a long time, and for some Councilmembers this is not the first time or the first time you have been on Council that this issue has come up. It can go back many years. So, I want to commend all of you. Now Council Chair, I would like to ask something. Councilmember Yukimura made a comment in regards to provoking and had me reread it. Then, she made a comment in regards to in court...I think what she said was...

Council Chair Rapozo:

The comment was inappropriate.

Mr. Hart: Can I clarify? If there is something that is a legal issue that prevents what I suggested from working, I do not understand it. She said only one (1) witness and then it was cut off. I do not know what she is talking about. But my suggestion, I believe, is fair. I believe it is fair and that it addresses the issue of provoking. I am going to have to agree that if we cannot overcome this hurdle of provoking, then this law is not going to work. It will just stall. I am willing to work with any Councilmember, I think many of the members of the audience are willing to work with any Councilmember, and I think there is a genuine concern on everybody's part in here, both sides, to resolve this issue. I am really hoping and offer to help any way I can to get a law in place that will work. Thank you.

Council Chair Rapozo: Thank you. Anyone else wising to testify?

There being no further testimony, the public hearing adjourned at 2:45 p.m.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large loop followed by several smaller loops and a long horizontal stroke extending to the right.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

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